

0019

C/007/039 Incoming

OK

#3251

**Canyon Fuel Company, LLC**  
**Dugout Canyon Mine**  
P.O. Box 1029  
Wellington, Utah 84542



April 1, 2009

Coal Regulatory Program  
Utah Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
Salt Lake City, UT 84114-5801

RE: Clean Copies of Revisions to Chapter 3's, Task ID # 3218, Dugout Canyon Mine, Canyon Fuel Company, LLC, C/007/039, Carbon County, Utah

Chapter 3, Degas Amendment  
Chapter 3, Refuse Pile Amendment  
Chapter 3, Mining and Reclamation Plan  
Confidential Folder – Chapter 3, Appendix 3-3

Dear Sirs:

Enclosed please find six clean copies of changes associated with Chapter 3 and raptor surveys. The major change to the text is that existing raptor survey commitments have been collected into one paragraph.

The changes have effected four Chapter 3's associated with the Dugout SMCRA permit they are the Degas Amendment, the Refuse Pile Amendment, the Mining and Reclamation Plan and the Confidential Folder – Chapter 3, Appendix 3-3.

Please call with questions (435) 636-2869.

Sincerely yours,

Vicky S. Miller

cc: Dave Spillman

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APR 02 2009

DIV. OF OIL, GAS & MINING

# APPLICATION FOR COAL PERMIT PROCESSING

Permit Change ☒ New Permit ☐ Renewal ☐ Exploration ☐ Bond Release ☐ Transfer ☐

Permittee: Canyon Fuel Company, LLC

Mine: Dugout Canyon Mine

Permit Number: C/007/039

Title: Clean Copies of Revisions to Mining and Reclamation Plan, Confidential Folder Appendix 3-3 of Chapter 3

Description, Include reason for application and timing required to implement:

Task ID# 3218

**Instructions:** If you answer yes to any of the first eight (gray) questions, this application may require Public Notice publication.

- ☐ Yes ☒ No 1. Change in the size of the Permit Area? Acres: \_\_\_\_\_ Disturbed Area: \_\_\_\_\_ ☐ increase ☐ decrease.
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Explain: \_\_\_\_\_
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Please attach four (4) review copies of the application. If the mine is on or adjacent to Forest Service land please submit five (5) copies, thank you. (These numbers include a copy for the Price Field Office)

I hereby certify that I am a responsible official of the applicant and that the information contained in this application is true and correct to the best of my information and belief in all respects with the laws of Utah in reference to commitments, undertakings, and obligations, herein.

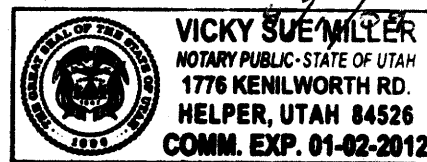
David Spillman  
Print Name

David Spillman, Engineering Manager  
Sign Name, Position, Date

Subscribed and sworn to before me this 1 day of April, 2009

Vicky Sue Miller  
Notary Public

My commission Expires: 1/2, 2012  
Attest: State of UTAH } ss:  
County of CARBON



For Office Use Only:

Assigned Tracking  
Number:

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David Spillman  
Print Name

David Spillman Engineering Manager  
Sign Name, Position, Date

Subscribed and sworn to before me this 1 day of APRIL, 2009

Vicky Sue Miller  
Notary Public

My commission Expires: 1-2, 2012  
Attest: State of UTAH } ss:  
County of CARBON



**For Office Use Only:**

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DIV. OF OIL, GAS & MINING

# APPLICATION FOR COAL PERMIT PROCESSING

## Detailed Schedule Of Changes to the Mining And Reclamation Plan

**Permittee:** Canyon Fuel Company, LLC

**Mine:** Dugout Canyon Mine

Permit Number: C/007/039

**Title:** Clean Copies of Revisions to Mining and Reclamation Plan, Chapter 3 - Task ID#3218

Provide a detailed listing of all changes to the Mining and Reclamation Plan, which is required as a result of this proposed permit application. Individually list all maps and drawings that are added, replaced, or removed from the plan. Include changes to the table of contents, section of the plan, or other information as needed to specifically locate, identify and revise the existing Mining and Reclamation Plan. Include page, section and drawing number as part of the description.

### DESCRIPTION OF MAP, TEXT, OR MATERIAL TO BE CHANGED

[illegible]

**Any other specific or special instruction required for insertion of this proposal into the Mining and Reclamation Plan.**

4/1/09 These pages belong in the Mining and Reclamation Plan binders.

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In the Perkins-Dugout Mine Bat Survey the following statement was made "development plans for the proposed disturbance area contains some mitigation for resident bat species. A proposed runoff pond will likely provide accessible year round water and an associated bio-mass. Presently Dugout Creek is not classified as a perennial stream. In addition, plans include several outdoor flood lights which may act as an attractant for phototropic insects and provide a concentrated and stable food resource for local bat populations. Due to no cliff subsidence and mitigating actions noted above, it is our opinion that excepting the disturbance to and removal of 2,000 ft. of riparian zone, impact (either positive or negative) on local bat populations is minimal".

#### Raptor and Bat Survey

A Spring survey of raptor nests will be conducted in areas where raptor habitat could be affected by subsidence or surface disturbance associated with the mining activities of the Dugout Canyon Mine. The survey area will be in a one-half mile radius of the potential subsidence or activity. In addition, raptor nest locations will be monitored/surveyed the year following the first monitoring/survey if nests were observed during the survey and if operations result in subsidence. Raptor survey information will be placed in the confidential folders of the M&RP.

When protection of a raptor nest is needed the permittee will contact the Division prior to any raptor nest protection efforts. A determination by the permittee, UDWR and UDOGM will be made as to the method(s) to be used to avoid, protect, or take the raptor's nest(s).

A bat survey for Utah sensitive bat species is planned for 2005 (May thru September), this survey will cover the cliff areas adjacent to a proposed fan breakout in Pace Canyon. Baseline bat surveys of Utah sensitive bat species will be conducted between May and September in riparian habitat expected to be impacted by subsidence. In addition, Utah sensitive bat species will be monitored/surveyed the year following the first monitoring/survey if Utah sensitive bat species were observed during the survey and if mining operations result in subsidence impact to the riparian habitat.

On the nights of May 21 and 22, 2007 JBR Environmental Consultants, Inc conducted bat surveys along the northern cliffs of Pace Creek Canyon. The inventory area of the survey included portions of Sections 16, 17, 18, 19, 20 and 21 T13SR13E. During the two night of recording bat calls, no bat call files were produced (Attachment 3-2).

Federal Coal Lease U-07064-027821 and State Lease ML-50582-OBA

The area was included in the areas requested to be surveyed by the DWR during the 2006 and 2007 raptor surveys. Raven nests were the only nests active during the 2007 survey of the leased areas. Due to the limited size of disturbance within the area of the leases, impacts to "Habitats of Unusually High Value" will be minimal.

40 Acres - Federal Coal Lease U-07064-027821 The 40 acres was included in the 2006 raptor survey performed by the DWR.

Tony Wright of DWR and Jerriann Ernstsens of UDOGM had a conversation on March 6, 2007, per a message from Ms. Ernstsens left on the phone of Vicky Miller, Dugout Canyon Mine's Environmental Engineer. According to Ms. Ernstsens, the conversation concerned bat habitat on the 40 acres described as NW1/4NW1/4 Section 21, Township 13S, Range 13 East. Mr. Wright stated in the conversation between himself and Ms. Ernstsens that he was not concerned with the loss or impact to bat habitat in the area described except for the loss of a water source, a spring in the NE1/4NE1/4NW1/4 of Section 21, T13S, R13E. The spring (groundwater monitoring location 259A (Plate 7-1), added in 2007 in conjunction with the 40 acre permit area expansion, Task ID #2743) is located over an area where minimal subsidence is anticipated. To the best of the permittee's knowledge and understanding the 40 acre permit area expansion does not require a bat survey.

During June of 2005 the bat survey performed by JBR consultants, Pace Creek was surveyed. Site/stop #7 was in the S1/2SW1/4 of Section 21, Appendix 3-3 of M&RP, Figure 1, this stop was the closest to the proposed 40 acres. In the summary of the report it states "the nearly constant bat activity at the Stop #7 pond suggests that this water feature is an important resource for bats in terms of both water and feeding." The pond will not be effected by the mining proposed in the NW1/4NW1/4 Section 21, Township 13S, Range 13 East, (40 Acre addition to Federal Coal Lease U-07064-027821), but according to the JBR consultants is likely the water source used by the bats in the area.

Replacement

Since water and its corresponding vegetation are important throughout the state of Utah, regulatory agencies have been requiring mitigation for disturbance and eventual replacement from the coal industry. SCM will comply with the requirements of mitigation and eventual replacement of the resources which may be lost or disturbed during this mining operation, refer to Sections 331, 340, 350, and 762.100.

### **333 Plan to Minimize Disturbances and Adverse Impacts**

General control and mitigation measures addressing potential operational related biological impacts will include the following:

- Minimizing the total area of disturbance,
- Design, construction, and operation of facilities to minimize biological impacts including barriers to wildlife movements,
- Design and installation of electrical equipment to minimize electrocution hazards,
- Establishment of stream buffer zones,
- Control and monitoring of surface discharges and water quality,
- Exclusion of wildlife from potentially hazardous areas, and
- Reclamation of disturbed areas when they are no longer needed.

The raptor survey by the UDWR in 1997 lists the three nests within Section 16, T13S, R12E, as being two inactive hawk nests and an old dilapidated golden eagle nest. The dilapidated nest and an inactive hawk nest are located over a area planned for mining during 2001 to 2005 (comparison of Plates 3-2 and 5-7). The second inactive hawk nest is within the area of potential subsidence but not over mining. Since the condition of these nests may change by the time mining reaches their location a plan for their protection or taking will not be determined at this time. The nests in Section 16 were monitored in the annual raptor survey (1998 - 2008).

Section 22, T13S, R12E contains a raven nest and an active golden eagle nest. Bill Bates and Ben Morris concurred that "the raven nest in Section 22 was not of particular concern, but that the golden eagle nest should be monitored." See Sections 322.200, 333.300 and 358.100 for the raptor monitoring commitments. The golden eagle nest is located over a area planned for mining during 2000 to 2001 (comparison of Plates 3-2 and 5-7). This golden eagle nest was not active from 2004 through 2008, although it showed signs of being tended in 2004 and 2005.

Only one of the old dilapidated golden eagle nests surveyed in Section 23 during 1997 was surveyed during the 1998 raptor survey. The UDWR in Price and Salt Lake and the Fish and Wildlife Service

both in Salt Lake and Denver have been contacted to determine the need for a "take permit" for this nest.

According to a comparison of the raptor surveys performed in 1995 and 1997, the nest inhabitants, conditions and existence may change. Therefore each nest should be evaluated separately and not as a collective. Methods of protection will be determined on a case by case basis using the "best technology available". Regarding exclusionary periods refer to Section 358.

The raptor nests located in the survey taken in 1998 are plotted on Plate 3-2.

### **333.100 Minimized Disturbance to Endangered or Threatened Species**

SCM will apply all methods necessary to minimize disturbances or any adverse effects to endangered and threatened species listed on the tables in Appendix 3-3.

### **333.200 Species and Habitats**

All species and habitats within the permit area will be protected to the best of SCM ability. Wildlife habitat protection will be considered in the construction of facilities. For additional information, see Section 333.300.

### **333.300 Protective Measures**

Upon notification or suspicion of raptor nests within the permit boundary cliff escarpment subsidence zone the following inventory will be taken to determine the potential actions to be taken by SCM.

- Verify the existence of a nest or nests,
- Verify occupation by birds/raptors, eggs or young,
- Determine the condition of nest or nests,



- Location of nest in relationship to recoverable resource (creation of table with nest location number and planned year for undermining).

The information collected in the inventory will be discussed with various agency personnel (i.e., UDOGM, USFWS, DWR, etc.). SCM and the various agencies will determine:

- a method of avoidance when possible,
- determine seasons/months for nests to be covered/uncovered,
- explore alternative methods of protection or removal, and
- develop a mitigation plan when needed.

The method(s) to be used will be determined prior to the period of potential subsidence.

SCM does not currently know the exact locations or thicknesses of recoverable resource, therefore to determine the potential loss of revenues is premature in relation to the avoidance of a raptor nest or nests. Each nest(s) and its corresponding occupant(s) and circumstances will be evaluated by a qualified person nine months or the summer prior to the period of potential subsidence. A determination by SCM, UDWR (Fish and Wildlife) and UDOGM will be made as to the method(s) to be used for the protection/avoidance/removal of the nest(s) (refer above to inventory listing in this section).

SCM commits to include wildlife awareness and protection training in it's annual training curriculum for employees and request the haulage contractors to provide the same training for it's employees.

Wildlife accustom to their current sources of food may be endangered with a change or enhancement of plant species. The improvement or addition of water developments can act to concentrate wildlife in a specific area, thus causing compaction to soils and over grazing of vegetation in an area. Areas which may be fenced to exclude livestock from an area, may also exclude wildlife, thus causing increased competition for food and territory in another area. Since SCM is unaware of the possible advantages or disadvantages to change in an area of habitat, we commit to use the best technology currently available to handle specific concerns, and which will benefit the greatest range of wildlife. Should the enhancement of habitat outside the disturbed area

become necessary to attract wildlife away from the mining facilities, efforts will be coordinated with the UDWR.

Revegetation of disturbed areas, as part of the reclamation effort, will include a mixture of grasses, forbs, shrubs and trees which are beneficial to wildlife.

As part of the overall surface water monitoring program, SCM will monitor surface water flow to determine it's relationship to area subsidence. See Chapter 7 of this M&RP for a discussion of the water monitoring program.

Refer to Section 322.200 for information and commitments pertaining to raptor surveys.

Before a pesticide is used, the type and concentration will be approved in conjunction with UDWR or the Division.

### **358.100 Existence of Endangered or Threatened Species**

Coal mining will not be conducted where its operation might jeopardize the existence of any endangered or threatened species. The mining of coal will not result in the planned destruction or adverse modification of these species critical habitat, unless approved by appropriate agency(ies).

Any state or federally listed endangered or threatened specie will be reported to the Division upon its discovery. A ground nest survey for raptors and bird species of special interest was performed in 1998 prior to site disturbance by a qualified person. A letter report of the ground nest survey is included in Appendix 3-3. Mining operations will proceed in accordance with Division stipulations. These stipulations also apply to reclamation operations at the Dugout Canyon Mine.

Lists of threatened, endangered, and sensitive species are included in Appendix 3-3. In addition, Appendix 3-3 contains 2003 and 2004 survey data for Mexican Spotted Owls and a letter from the DWR concerning installation of nesting boxes to satisfy mitigation requirements.

### **358.200 Bald and Golden Eagles**

Coal mining and reclamation operations will be conducted in a manner protective of bald and golden eagles. SCM will promptly report any golden or bald eagle nests found within the permit boundaries and will proceed with operations in accordance with the Division's stipulations for protection of those nests. Refer to Section 333 for a discussion of methods of nest protection during potential subsidence.

### **358.300 Taking of Endangered or Threatened Species**

SCM understands that there is no permission implied by these regulations for taking of endangered or threatened species, their nests, or eggs.

### **358.400 Replacement of Wetland and Riparian Vegetation**

The Division will be consulted on the best technology to replace and enhance the riparian vegetation to be disturbed.

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Permit Number: C/007/039

Title: Clean Copies of Revisions to Degassification Well Amendment, Chapter 3, Task ID # 3218

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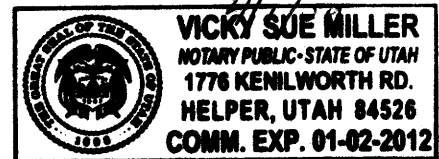
David Spillman  
Print Name

David Spillman, Engineering Manager  
Sign Name, Position, Date

Subscribed and sworn to before me this 1 day of APRIL, 2009

Vicky Sue Miller  
Notary Public

My commission Expires: 1-2, 2012  
Attest: State of UTAH } ss:  
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**DESCRIPTION OF MAP, TEXT, OR MATERIAL TO BE CHANGED**[illegible]

**Any other specific or special instruction required for insertion of this proposal into the Mining and Reclamation Plan.**

4/1/09 The Degassification Amendment is a stand alone document, pages in this submittal will be incorporated into the existing binder.

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## **322 Fish and Wildlife Information**

Fish and wildlife information associated with the degas wells is provided in this chapter. A summary of the fish and wildlife resource information for the permit and adjacent areas is contained in Sections 322.100 through 322.200 of the approved M&RP.

### **322.100 Level of Detail**

The scope and level of detail within the "Methane Degassification Amendment" are sufficient to design the protection and enhancement plan for wildlife and fish associated with the degas wells. Additional information pertaining to fish and wildlife in the permit area is located in the M&RP.

### **322.200 Site-Specific Resource Information**

**Raptors** - A Spring survey of raptor nests will be conducted in the immediate area (½ mile radius) of the well pads each year that the wells are in operation. Raptor survey information will be placed in the confidential folders of the M&RP.

An aerial raptor nest survey was done of the area by the Utah Division of Wildlife Resource (DWR, Chris Colt, Leroy Mead) and CFC personnel in May of 2003, refer to the Confidential Folder. Surveys were completed in May of 2004 and 2005, the information has been incorporated into the Confidential Folder.

No raptor nests were recorded during the survey (2003) in the area (portions of N1/2SE1/4NW1/4 and N1/2SW1/4NE1/4 of Section 24; a portions of N1/2SW1/4NW1/4 Section 19, Township 13 South, Range 13 East) of the degas wells. Refer to Figure 1-1 for mapped well locations.

During the 2004 raptor survey, there were no active or tended nests identified in the vicinity of the degas wells. During the 2005 raptor survey (May 12 & 20), there were no active or tended nests

identified in the vicinity of degas wells G-9 and G-10. Two golden eagles nests were observed in the cliffs adjacent to degas well G-8 (Nest 9, DWR 2005 Raptor Survey). A single young eagle was observed, but habitually vacates the nest within 45 days of birth.

A raptor survey was performed by Division of Wildlife Resources personnel in May 2006, a copy of the written log is included with deficiencies for Task ID #2456 (located in the confidential folder). Nest 424 when inventoried during the 1998 annual raptor survey was determined to be an inactive raven nest and was not found or inventoried again until 2004 when it was listed as inactive. Nest 424 was not inventoried or found during the annual raptor surveys in 2005 and 2006 by the Division of Wildlife Resources.

During a ground-truthing by Leroy Mead of the Division of Wildlife Resources on July 11, 2006, the two well sites with potential habitat for NSO and northern goshawks were G-14 and G-17. A calling survey will be performed if drilling at either of these sites will begin prior to the end of the exclusionary period, described as July 15. Wells G-14 will be drilled in 2006 after July 15. Well G-17 is to be drilled in 2009, the date for drilling will be scheduled according to the availability of drilling companies and a calling survey if needed will be performed at that time. If a calling survey is performed, the results will be incorporated into the confidential folder.

A Northern Goshawk calling survey was performed in July of 2003 for four weeks in the area of well site G-17. According to the survey there was no response from a northern goshawk. A copy of this survey is located in the confidential binder.

On July 12, 2006, Nest 9 a golden eagle nest was inventoried on the ground by Leroy Mead, although there is evidence of disturbance associated with subsidence in the area, the nest was not disturbed. The 2006 raptor survey lists Nest 9 as being tended.

The G-19 well site was inventoried by Leroy Mead in November 2006 and on June 11, 2007, no wildlife concerns were noted. The area was part of the annual raptor survey, no nest are located in the area.

# APPLICATION FOR COAL PERMIT PROCESSING

Permit Change ☒ New Permit ☐ Renewal ☐ Exploration ☐ Bond Release ☐ Transfer ☐

Permittee: Canyon Fuel Company, LLC

Mine: Dugout Canyon Mine

Permit Number: C/007/039

Title: Clean Copies of Revisions to Refuse Pile Amendment, Chapter 3, Task ID# 3218

Description, Include reason for application and timing required to implement:

**Instructions:** If you answer yes to any of the first eight (gray) questions, this application may require Public Notice publication.

- ☐ Yes ☒ No 1. Change in the size of the Permit Area? Acres: \_\_\_\_\_ Disturbed Area: \_\_\_\_\_ ☐ increase ☐ decrease.
- ☐ Yes ☒ No 2. Is the application submitted as a result of a Division Order? DO# \_\_\_\_\_
- ☐ Yes ☒ No 3. Does the application include operations outside a previously identified Cumulative Hydrologic Impact Area?
- ☐ Yes ☒ No 4. Does the application include operations in hydrologic basins other than as currently approved?
- ☐ Yes ☒ No 5. Does the application result from cancellation, reduction or increase of insurance or reclamation bond?
- ☐ Yes ☒ No 6. Does the application require or include public notice publication?
- ☐ Yes ☒ No 7. Does the application require or include ownership, control, right-of-entry, or compliance information?
- ☐ Yes ☒ No 8. Is proposed activity within 100 feet of a public road or cemetery or 300 feet of an occupied dwelling?
- ☐ Yes ☒ No 9. Is the application submitted as a result of a Violation? NOV # \_\_\_\_\_
- ☐ Yes ☒ No 10. Is the application submitted as a result of other laws or regulations or policies?  
Explain: \_\_\_\_\_
- ☐ Yes ☒ No 11. Does the application affect the surface landowner or change the post mining land use?
- ☐ Yes ☒ No 12. Does the application require or include underground design or mine sequence and timing? (Modification of R2P2)
- ☐ Yes ☒ No 13. Does the application require or include collection and reporting of any baseline information?
- ☒ Yes ☒ No 14. Could the application have any effect on wildlife or vegetation outside the current disturbed area?
- ☐ Yes ☒ No 15. Does the application require or include soil removal, storage or placement?
- ☐ Yes ☒ No 16. Does the application require or include vegetation monitoring, removal or revegetation activities?
- ☐ Yes ☒ No 17. Does the application require or include construction, modification, or removal of surface facilities?
- ☐ Yes ☒ No 18. Does the application require or include water monitoring, sediment or drainage control measures?
- ☐ Yes ☒ No 19. Does the application require or include certified designs, maps or calculation?
- ☐ Yes ☒ No 20. Does the application require or include subsidence control or monitoring?
- ☐ Yes ☒ No 21. Have reclamation costs for bonding been provided?
- ☐ Yes ☒ No 22. Does the application involve a perennial stream, a stream buffer zone or discharges to a stream?
- ☐ Yes ☒ No 23. Does the application affect permits issued by other agencies or permits issued to other entities?

Please attach four (4) review copies of the application. If the mine is on or adjacent to Forest Service land please submit five (5) copies, thank you. (These numbers include a copy for the Price Field Office)

I hereby certify that I am a responsible official of the applicant and that the information contained in this application is true and correct to the best of my information and belief in all respects with the laws of Utah in reference to commitments, undertakings, and obligations, herein.

David Spillman  
Print Name

David Spillman, Engineering Manager  
Sign Name, Position, Date

Subscribed and sworn to before me this 1 day of April, 2009

Vicky Sue Miller  
Notary Public

My commission Expires: 1-2, 2012  
Attest: State of UTAH } ss:  
County of CARBON



**VICKY SUE MILLER**  
NOTARY PUBLIC - STATE OF UTAH  
1776 KENILWORTH RD.  
HELPER, UTAH 84526  
COMM. EXP. 01-02-2012

For Office Use Only:

Assigned Tracking  
Number:

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## Detailed Schedule Of Changes to the Mining And Reclamation Plan

**Permittee:** Canyon Fuel Company, LLC

**Mine:** Dugout Canyon Mine

Permit Number: C/007/039

**Title:** Clean Copies of Revisions to Refuse Pile Amendment, Chapter 3 - Task ID# 3218

Provide a detailed listing of all changes to the Mining and Reclamation Plan, which is required as a result of this proposed permit application. Individually list all maps and drawings that are added, replaced, or removed from the plan. Include changes to the table of contents, section of the plan, or other information as needed to specifically locate, identify and revise the existing Mining and Reclamation Plan. Include page, section and drawing number as part of the description.

### DESCRIPTION OF MAP, TEXT, OR MATERIAL TO BE CHANGED

[illegible]

**Any other specific or special instruction required for insertion of this proposal into the Mining and Reclamation Plan.**

4/1/09 The Refuse Pile Amendment is a stand alone document, pages in this submittal will be incorporated into the existing binder.

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## **322 Fish and Wildlife Information**

A summary of the fish and wildlife resource information for the permit and adjacent areas is contained in Sections 322.100 through 322.300 of the approved M&RP. There are no water sources within the refuse pile permitted area to support fish.

### **322.100 Level of Detail**

The scope and level of detail within the approved M&RP are sufficient to design the protection and enhancement plan for wildlife and fish in the area. There are no water sources within the refuse pile permitted area to support fish.

### **322.200 Site-specific Resource Information**

Eight permanent experimental and four permanent control wildlife transects were established in the permit and adjacent areas by UDWR in December 1979 (Appendix 3-2 of the approved M&RP). During 1995 - 1996 an environment assessment (EA) for a Carbon County Road Right-of-Way UTU-73293 was prepared by Environmental Industrial Services for the BLM. The road right-of-way borders the refuse pile site and the studies associated with the EA included land within 0.5 miles of the right-of-way, which included the refuse pile site.

**Raptors.** Raptor nest surveys were done in the general area by the UDWR 1995, 1997, 1998, and 1999. The 2002 survey included the area of the refuse pile site, no nests were found within the flight path. Refer to the 2002 Raptor Survey Dugout Canyon flight map (RA Attachment 3-2).

Two Ferruginous hawk nests were located in Section 8, Township 14 South and Range 12 East during a survey in 1998. One nest was located in the NW $\frac{1}{4}$  and the other nest was located in the SW $\frac{1}{4}$ , neither nest is listed on the current UDWR database report. A golden eagle nest was located in the NE $\frac{1}{4}$  of Section 19. All three nests are over one-half a mile away from the refuse site and should not be affected by activities at the refuse site. A one-half mile area around the refuse pile permit area will be surveyed as part of the 2003 raptor survey and each year thereafter until 2008. In the six years of surveys by the DWR no raptor nests have been located within one-half mile of

the refuse pile, therefore the survey will be considered finished with the 2008 survey. Refer to the approved M&RP and/or the Dugout Canyon annual reports for copies of other raptor surveys. Information pertaining to the 2002 surveys is included in RA Attachment 3-2.

**Threatened and Endangered Plant and Wildlife Species.** There are no known threatened and endangered plant and wildlife species within the area to be disturbed. A letter from the UDWR referencing the lack of federally listed threatened or endangered fish or wildlife species is included in Attachment 3-2. Due to the disturbed condition of the land associated with the extraction of gravel, T & E plant species are not likely to exist within the permit area. The refuse pile site does not support habitat for bats or fish.

**Habitats of Unusually High Value.** The refuse pile site is considered by the UDWR as high value winter range for elk and is considered deer critical winter range.

CFC will comply with the requirements of mitigation and eventual replacement of the resources which may be lost or disturbed during this mining operation, refer to Sections 331, 340, 350, and 762.100 of the approved M&RP and this amendment.

Due to the previous site disturbance for gravel excavation and lack of revegetation, the restoration of the vegetation planned, will be a benefit to the wildlife not previously available.

#### **322.300 Fish and Wildlife Service Review**

If requested, CFC authorizes the release of information pertaining to Section 322 and 333 to the U.S. Fish and Wildlife Service Regional and Field office for their review.

#### **323 Maps and Aerial Photographs**

Maps are contained within the approved M&RP and this application.

#### **323.100 Location and Boundary of Proposed Reference Area**

A reference area has been designated for the refuse pile site, refer to RA Figure 3-1.